

## **MINUTES**

### **MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY**

**Call to Order:** By **CHAIRMAN AL BISHOP**, on February 7, 2001 at 3 P.M., in Room 317-A Capitol.

#### **ROLL CALL**

##### **Members Present:**

Sen. Al Bishop, Chairman (R)  
Sen. Duane Grimes, Vice Chairman (R)  
Sen. Chris Christiaens (D)  
Sen. Bob DePratu (R)  
Sen. Eve Franklin (D)  
Sen. Don Hargrove (R)  
Sen. Dan Harrington (D)  
Sen. Royal Johnson (R)  
Sen. Jerry O'Neil (R)  
Sen. Emily Stonington (D)

**Members Excused:** Sen. Fred Thomas (R)

**Members Absent:** None.

**Staff Present:** Jeanne Forrester, Committee Secretary  
Susan Fox, Legislative Branch

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 310, 1/25/2001; SB 329,  
2/1/2001; SB 309, 1/25/2001;  
SB 314, 2/1/2001

Executive Action:

#### **HEARING ON SB 310**

**Sponsor:** SEN. MIGNON WATERMAN, SD 26, HELENA

**Proponents:** Aidan Myhre, Montana Comprehensive Health Association  
Claudia Clifford, State Auditor's Office  
Chuck Butler, BlueCross BlueShield  
Al Pontrelli, Montana Association of Insurance and  
Financial Advisors  
Mary Allen, Montana Benefits and Life

**Opponents:** None

**Opening Statement by Sponsor:**

**SEN. MIGNON WATERMAN, SD 26, HELENA,** introduced SB 310. She said this is a housekeeping bill for the Montana Comprehensive Health Association (MCHA). This bill was brought forth by the board of directors of the MCHA. It will revise the provisions to the MCHA by applying mandatory coverage for severe mental illness; revise the one percent assessment amount to a cap the assessment may not exceed; remove the ability to abate an excess assessment; allow MCHA to charge late payment penalties, interest or both; raising the amount to \$50 under which an assessment need be levied; and raise the maximum pharmacy benefit to \$2,000.

**Proponents' Testimony:**

**Aidan Myhre, Montana Comprehensive Health Association,** said the MCHA was established for high-risk individuals and would allow them to obtain health insurance regardless of their physical condition. She passed out two brochures explaining the MCHA **EXHIBIT** (phs31a01).

**Claudia Clifford, State Auditor's Office,** said her office supports this bill.

**Chuck Butler, BlueCross BlueShield BCBS,** said BCBS was in favor of this bill.

**Al Pontrelli, Montana Association of Insurance and Financial Advisors,** said they stand in support of this bill.

**Mary Allen, Montana Benefits and Life,** urged the committee to support this bill.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**SEN. EMILY STONINGTON** said she has a pre-existing condition and would she be able to partake in this plan. **Ms. Myhre** said she would be able to purchase coverage.

**SEN. DUANE GRIMES** wanted to know how it came about to cover mental health services. **Ms. Myhre** said previous legislation to include mental health coverage was passed in 1999, and there was some question whether that applied to MCHA. MCHA has since adopted mental health coverage into their coverage.

**SEN. GRIMES** wondered what has been the effect on the MCHA by adding mental health coverage, and if the board thought it would reduce costs because they are taking care of this earlier down the road. **Mr. Butler** said he brought it to the attention of the board to include severe mental health coverage. The board decided to adopt mental health coverage and it went into effect on January 1, 2001. He said he believes it is the right thing to do for people with a severe mental illness.

**SEN. JERRY O'NEIL** asked who pays for this insurance. **Mr. Butler** said the insured are paying for their own coverage. They cover about 60% of the cost of their premiums, the other 40% is covered by a 1% fee that is assessed to the insurance companies.

**SEN. ROYAL JOHNSON** asked if in the high risk pool do you take into consideration income levels. **Mr. Butler** said they did not, there is no income eligibility requirement for participating.

**Closing by Sponsor:**

**SEN. WATERMAN** said the parity proposal in other states has not had a discernable increase in costs. She reiterated this is not a low income insurance program, it is for Montanans who cannot get insurance any other place.

**HEARING ON SB 329**

**Sponsor:** **SEN. GLENN ROUSH, SD 43, CUT BANK**

**Proponents:** **Dale Colles, Glacier County Medical Center, Cut Bank**  
**Tony Underwood, Glacier County Medical Center, Cut Bank**  
**Lewis Smith, Board of Nursing**  
**John Flink, Montana Hospital Association**  
**Sami Butler, Montana Nursing Association**

**Opponents:** None

**Opening Statement by Sponsor:**

**SEN. GLENN ROUSH, SD 43, CUT BANK,** introduced SB 329. This bill is an act providing provisional practice permits for registered, professional, and licensed practical nurses from Canada; and temporary practice permits for nurses from another state. While these applicants seek licensure to practice professional or practical nursing in the state of Montana.

**Proponents' Testimony:**

**Dale Colles, Glacier County Medical Center, Cut Bank,** said they appreciate all the help that had been given to SB 329. He said he comes from a small rural hospital and they feel this bill would help them tremendously. His hospital spent over \$200,000 on traveling RN's, that is 30% of their staff and a big part of their budget. It is very hard to find nurses to work in his hospital. He said he knows this bill is not the answer, but is a step in the right direction. He thanked the committee for the opportunity to testify.

**Tony Underwood, Glacier County Medical Center, Cut Bank,** said he is a registered nurse and the director of nursing. He has been employed there for 18 months and the entire time he has been there, they have been short staffed. The number of people graduating from nursing school has been going down and people want to work in larger cities. The Canadian nurses want to come here and work, but there are barriers which limit their coming to work here. In summary, he said if we can get some of these nurses it will allow a smooth transition and fill some of their staffing needs.

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**Lewis Smith, Board of Nursing,** supports passage of SB 328. Montana is facing a critical nursing shortage and the passage of this bill will allow for filling some of the spaces, particularly in the rural areas. He said the Board of Nursing supports passage of this bill.

**John Flink, Montana Hospital Association,** he said the MHA strongly supports passage of this bill.

**Sami Butler, Montana Nursing Association,** she said they have worked with the MHA and the Board of Nursing on this bill. This bill has safeguards to protect the public and as well as protecting jobs for Montana nurses, and it will help the communities on the hi-line. She said she thought it was a short term fix, but it was a good place to start.

Testimony was submitted from **Rita Harding EXHIBIT (phs31a02)**.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**SEN. DUANE GRIMES** asked why are there provisions of six months and why are they nonrenewable. **SEN. ROUSH** said they are not trying to replace Montana nurses.

**SEN. ROYAL JOHNSON** asked if this required the nurse to be a Canadian citizen or just a Canadian nurse. **SEN. GLENN ROUSH** said he had a letter from the Immigration Department at Sweet Grass and they have to have proof of Canadian citizenship and proof of a four year college degree.

**SEN. JOHNSON** asked why you differentiate between a Canadian nurse and a nurse from this country. **Mr. Flink** said the reason there are two different provisions are because nurses from the United States do not have to take the national licensing examination and nurses from Canada do.

**Closing by Sponsor:**

**SEN. ROUSH** thanked the committee for good hearing. He asked for a do pass of this bill.

**HEARING ON SB 309**

**Sponsor:** **SEN. MIKE HALLIGAN, SD 34, MISSOULA**

**Proponents:** **Bob Olsen, Montana Hospital Association**  
**Mary Lou Jorns, Helena SurgiCenter**  
**Craig Eddy, St. Patrick Hospital and Providence**  
**Surgery Center**  
**Jani McCall, Deaconess Billings Clinic**  
**Jim Ahrens, Montana Hospital Association**  
**Denzel Davis, Department of Public Health and Human**  
**Services**

**Opponents:** **Daniel Boatman, Central Montana Surgery Center**  
**Dr. Melvin Pitts, Great Falls Surgery Center**  
**Susan Good, Montana Orthopedics Society**  
**Mona Jamison, Great Falls Clinic**

**Opening Statement by Sponsor:**

**SEN. MIKE HALLIGAN, SD 34, MISSOULA**, introduced SD 309. This bill would prohibit a recovery care bed in an outpatient center for surgical services from being used for a patient for longer than 23 hours.

**Proponents' Testimony:**

**Bob Olsen, Montana Hospital Association** presented a copy of a summary of their position on the bill **EXHIBIT(phs31a03)**. He said they were in support of this bill.

**Mary Lou Jorns, Helena SurgiCenter**, presented a copy of her testimony **EXHIBIT(phs31a04)**.

**Craig Eddy, St. Patrick Hospital and Providence Surgery Center** submitted a copy of his testimony **EXHIBIT(phs31a05)**.

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**Jani McCall, Deaconess Billings Clinic**, said they wanted to go on record in support of the bill.

**Jim Ahrens, Montana Hospital Association**, said he was here as a representative of **Tom Ebzery**. He said **Mr. Ebzery** represents St. Vincent's Hospital in Billings, St. James in Butte, and Holy Rosary in Miles City. He said they would urge your support of this bill.

**Denzel Davis, Department of Public Health and Human Services**, said he came in support of this bill. He said this bill will clear up the definition of an observation bed.

**Opponents' Testimony:**

**Daniel Boatman, Central Montana Surgery Center** said the committee needs to look at the motives behind this bill. He said when they built their surgery center, they made it very clear to the people at the state licensing department what their plans were, and the people at licensing made it very clear to them what the law was. The law was anything less than 24 hours and it was established then and there. They proceeded to build their very expensive facility, based on that interpretation. He said he did not know who requested this bill, but he feels this is an unnecessary bill. This is a bill to block competition and a bill to stop people from expanding. He passed out a publication put out by the hospital **EXHIBIT(phs31a06)**, that refers to the West Ambulatory Center, only when it is convenient. He said he is very disturbed by the motives of this bill and asked the committee to consider this when you vote on this bill.

He also wants the committee to recognize the 24 hours, which was the department's interpretation of the law. He again said this is an unnecessary bill.

**Dr. Melvin Pitts, Great Falls Surgery Center** said he was here to oppose SB 309. He said he would never advocate to do surgeries in a surgery center, when a certain surgery should be done in a hospital. He said quality is an issue and all the ambulatory centers in the state are licensed. He said he thought this bill was very restrictive and asked for the committee not to vote for this bill.

**Susan Good, Montana Orthopedics Society**, said what we are talking about is a simple matter of health care economics. This bill is about the struggle between hospitals and surgery centers, most notably St. Patrick's Hospital in Missoula. Surgery centers are rated as having 98% patient satisfaction for Medicare patients. According to statistics from BCBS, surgeries performed at surgery centers cost 47% less than the same procedure performed in a hospital. The Montana Orthopedic Society believes honest competition for services rendered will result in higher quality and at a more affordable cost. SB 309 might be viewed as more protectionist. Please vote no on SB 309.

**Mona Jamison, Great Falls Clinic**, said they were in opposition to SB 309. She asked "where is the problem and where is the data?" You need to get behind the bill and see what it really is about. She wondered if there was have documentation that showed any patients staying beyond the 24 hour limit. She said before you can even operate an ambulatory surgery center, you must have a transportation agreement with a hospital. She said she thought they were fighting a nonexistent issue. She urged the committee to oppose the bill.

#### **Questions from Committee Members and Responses:**

**SEN. EVE FRANKLIN** asked what is the compelling motivation for this bill. **Mr. Olsen** said it is real simple, they are not alleging poor quality care. This came to them from one of their members in Missoula, who read in a magazine that surgery centers can be transformed into a mini orthopedic hospitals. The key to doing this is that you have to go to a state that does not regulate the outpatient setting. Ironically these are outpatient settings, that offer inpatient care. That is why they brought the bill to you now, before this happens here.

**SEN. JERRY O'NEIL** asked as long as these surgery centers are providing good service, why don't we want competition. **Mr. Olsen** said they are not trying to suppress competition. All we are

saying is if you want to offer inpatient care, you need to meet inpatient standards.

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**SEN. FRANKLIN** asked if the reimbursement levels differ for the inpatient care setting and the surgery centers. **Mr. Boatman** said that is a complicated issue. There are fixed fee schedules and often, there are competitive forces that bring that down.

**SEN. FRANKLIN** asked if the charges and the costs are two different things. **Mr. Olsen** said in the past, Medicare paid hospitals more than they paid Ambulatory Surgery Center's (ASC's). Current Medicare policy is to eliminate the difference in the reimbursement rates, based on the location of service. What that means is hospitals have been put on a fixed fee schedule that began last August. Ambulatory Surgery Center's were supposed to begin on that same schedule January 1, 2001. Because of political clout, ASC's have not had to go on that schedule for a couple of years.

**SEN. DON HARGROVE** asked what processes do the hospitals and ASC's have, when it comes to resolutions between them. **Mr. Boatman** said up to this point it seems a bill is introduced in the legislature and then they come here.

**SEN. EMILY STONINGTON** said if this law were to pass what would be the remedy if they violated the 24 hour time limit. **Mr. Davis** said they could take action regarding their licenses, as well as assessing penalties. **SEN. STONINGTON** asked who would be the one requesting that action. **Mr. Davis** said a report like that could come from a lot of places, including patients or a patient who did not have a good outcome.

**SEN. DAN HARRINGTON** asked if these surgeries are usually performed in the daylight hours. **Mr. Boatman** said that is not necessarily so, yesterday they did a surgery on a patient who came in at 6:30 at night.

**Closing by Sponsor:**

**SEN. HALLIGAN** said this is a matter of where we draw the line on public policy. These are outpatient facilities performing inpatient care. If that is what we want, than that is what we have to say. He hoped the committee would help the department out with the things we create here.



**Sponsor:** SEN. STEVE DOHERTY, SD 24, GREAT FALLS

**Proponents:** Dave Pauli, Humane Society Regional Director  
Mark Johnson, Veterinarian, Bozeman  
Rick Helms, Great Falls Vet Service  
Richard Stockdale, Director of Flathead County  
Animal Control  
Linda Hughes, Montana Animal Care Association

**Opponents:** Ken Brown, President, Montana Board of Veterinary  
Medicine  
Lewis Smith, Board of Veterinary Medicine  
Stuart Doggett, Montana Veterinarian Medical  
Association

**Opening Statement by Sponsor:**

SEN. STEVE DOHERTY, SD 24, GREAT FALLS introduced SB 314. This is an act providing for the regulation and certification of persons and entities that euthanize animals. It would allow a certified practitioner or a certified euthanasia technician to apply for registration to possess, dispense, and administer controlled substances for the purpose of euthanizing animals.

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**Proponents' Testimony:**

Dave Pauli, Humane Society Regional Director, submitted a copy of his testimony **EXHIBIT**(phs31a07). He urged the committee to support this legislation.

Mark Johnson, Veterinarian, Bozeman, said he trains animal control officers. It is important to remember that animal control is a public safety issue and euthanasia is an important aspect of animal control. He said SB 314 raises the standards in certification and training and that is critical. This has been an issue that has been going for 20 years or better. This bill will also create options for animal shelters. He presented a witness statement **EXHIBIT**(phs31a08).

Rick Helms, Great Falls Vet Service, said SB 314 would assure the time line for humane euthanasia. It would allow shelters to assume total liability and responsibility for controlled substances in their possession. It would also standardize requirements for euthanasia entities. He strongly urged the committee to support SB 314.

**Richard Stockdale, Director of Flathead County Animal Control,** said he was in support of SB 314. At issue are the other alternatives besides the injection method to euthanize animals. Currently, they use gas chambers and gunshots. The gas chamber is very hard on the employees who have to deal this method. It is far better to euthanize them with the injection method.

**Linda Hughes, Montana Animal Care Association,** said she represents 80 homeless, kenneled animals in Great Falls. She, also, represents the membership of MACA. She urged the committee to support this bill. Euthanasia represents good death, if there is such a thing.

**Opponents' Testimony:**

**Ken Brown, President, Montana Board of Veterinary Medicine,** said the Board of Veterinary Medicine is opposed to SB 314. He submitted a copy of his testimony **EXHIBIT**(phs31a09).

**Lewis Smith, Board of Veterinary Medicine,** submitted a copy of his testimony **EXHIBIT**(phs31a10). He said the feelings of the board is that this is something that may need to be done in the future, but this current vehicle is not the means for doing that.

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**Stuart Doggett, Montana Veterinarian Medical Association,** said his association voted to oppose SB 314.

**Questions from Committee Members and Responses:**

**SEN. EVE FRANKLIN** asked what is typically used for the euthanasia process. **Dr. Brown** the life is ended by intravenous penthobarbitol.

**SEN. FRANKLIN** asked what that board has done to address this public health epidemic. **Dr. Brown** said many of the veterinarians in practice have given many years of their practice life helping the animal shelters, and their costs are barely covered.

**SEN. DUANE GRIMES** asked about Schedule 2 drugs and the application of Title 50. He said if good records are not kept, the shelters could be liable for large penalties. **SEN. DOHERTY** said these folks are professionals and they know what they are doing. **Mr. Pauli** said he had visited every animal shelter in the state and many times and they have exceeded DEA standards.

**SEN. DAN HARRINGTON** asked how this bill would affect his community animal shelters. **Mr. Pauli** said some communities in the state are shooting dogs, because they have no options; others are looking at gas chambers. This bill would give communities more options.

**SEN. FRANKLIN** said **Mr. Smith** had some excellent corrections and amendments. **Mr. Smith** said if they were directed by the committee, they would draw up the amendments. **SEN. DOHERTY** said he would be amenable to the amendments.

**Closing by Sponsor:**

**SEN. DOHERTY** thanked everyone who testified. He said it is not the intention of this bill to allow Schedule 2 drugs to be out on the street or easily accessible. He said he would be glad to work on the amendments.

***{Tape : 3; Side : B; Approx. Time Counter : 0}***

**ADJOURNMENT**

Adjournment: 5:45 P.M.

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SEN. AL BISHOP, Chairman

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JEANNE FORRESTER, Secretary

AB/JF

**EXHIBIT** (phs31aad)